



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,307	06/20/2001	Adam Kolawa	41182/JEC/P396	4570
23363	7590	12/13/2005	EXAMINER	
CHRISTIE, PARKER & HALE, LLP			SELLERS, DANIEL R	
PO BOX 7068			ART UNIT	
PASADENA, CA 91109-7068			PAPER NUMBER	

2644

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/885,307	<b>Applicant(s)</b> KOLAWA ET AL.	
	<b>Examiner</b> Daniel R. Sellers	<b>Art Unit</b> 2644	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6,9,11,18-29,31-33,40-46,48 and 50-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,9,11,18-29,31-33,40-46,48 and 50-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-6, 9, 11, 18-29, 31-33, 40-46, 48, 50, 51, and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Atcheson et al., U.S. Pat. No. 5,583,763, Blum et al., U.S. Pat. No. 5,918,223, and Yee et al., U.S. Pat. No. 5,210,611 (from IDS mailed July 02, 2004 and Oct. 12, 2001, hereinafter Atcheson, Blum, and Yee respectively)
3. Regarding claim 1, the method for creating a customized audio program, see Atcheson. Atcheson teaches the use of user preferences to select a customized audio program (Col. 1, lines 7-19 and Col. 2, lines 7-15). The system compares received audio preferences with the audio characteristic information and selects the audio piece (Col. 2, lines 16-27). The user can download the piece and listen to it on a user station (Col. 3, lines 58-63). Inherently the user downloads at least a portion, detects a playback condition, and it is output through a computer or a hi-fi system. Atcheson, however, does not teach the automatic processing of audio signals for compiling the audio characteristic information, nor do they teach the delivery of a signal according to a broadcast time. Blum teaches a system that compiles audio characteristic information of an audio piece for classification and retrieval (Col. 2, line 51- Col. 3, line 67). It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the teachings of Atcheson and Blum for the purpose of including acoustic

Art Unit: 2644

information associated with the piece (Blum, Col. 1, lines 24-42 and Col. 2, lines 1-25).

However the combination of Atcheson and Blum do not teach the delivery of an audio piece according to a broadcast or scheduled time.

Yee teaches the selection of music according to broadcast times and user preferences (Col. 3, lines 5-9). It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the teachings of Atcheson, Blum, and Yee for the purpose of providing a user with automatic channel or station selection (Yee, Col. 1, lines 54-59 and Col. 3, lines 42-50).

4. Regarding claim 2, the further limitation of claim 1, Blum teaches audio characteristic information that indicates subject matter (Col. 3, lines 30-34 and lines 47-51).
5. Regarding claim 3, the further limitation of claim 1, the combination teaches that the audio piece includes music.
6. Regarding claim 4, the further limitation of claim 1, it is inherent that the audio piece includes voice.
7. Regarding claim 5, the further limitation of claim 1, the combination teaches that the audio piece can contain advertisements (see Yee).
8. Regarding claim 6, the further limitation of claim 1, Yee teaches the use of a particular theme, or general topic, for selecting a broadcast audio piece (Col. 3, lines 35-41).
9. Regarding claim 9, the further limitation of claim 1, see the preceding argument with respect to claim 6. Yee teaches the use of a radio broadcast.

Art Unit: 2644

10. Regarding claim 11, the further limitation of claim 1, the combination teaches the use of a network (see Atcheson, Fig. 1).

11. Regarding claim 18, see the preceding argument with respect to claim 1. The combination teaches the transmitting of a selected audio piece over a network using user preference data, which is compared to automatically compiled audio characteristic data. The combination also teaches the use of computing a distance between a user preference vector and an audio characteristic vector (see Blum, Col. 3, lines 22-29).

12. Regarding claim 19, the further limitation of claim 18, see the preceding argument with respect to claim 2.

13. Regarding claim 20, the further limitation of claim 18, see the preceding argument with respect to claim 3.

14. Regarding claim 21, the further limitation of claim 18, see the preceding argument with respect to claim 4.

15. Regarding claim 22, the further limitation of claim 18, see the preceding argument with respect to claim 5.

16. Regarding claim 23, the further limitation of claim 18, see the preceding argument with respect to claim 6.

17. Regarding claim 24, see the preceding argument with respect to claim 1. The combination of Atcheson, Blum, and Yee teaches these features, wherein Blum teaches the use of a first processor processing audio signals, and a second processor for comparing two or more signals.

Art Unit: 2644

18. Regarding claim 25, the further limitation of claim 24, see the preceding argument with respect to claim 2.
19. Regarding claim 26, the further limitation of claim 24, see the preceding argument with respect to claim 3.
20. Regarding claim 27, the further limitation of claim 24, see the preceding argument with respect to claim 4.
21. Regarding claim 28, the further limitation of claim 24, see the preceding argument with respect to claim 5.
22. Regarding claim 29, the further limitation of claim 24, see the preceding argument with respect to claim 6.
23. Regarding claim 31, the further limitation of claim 24, Atcheson teaches that processing can be passed to other regional hosts for computation (Col. 3, lines 40-50).
24. Regarding claim 32, the further limitation of claim 24, see the preceding argument with respect to claim 9. Yee teaches a radio broadcast.
25. Regarding claim 33, the further limitation of claim 24, see the preceding argument with respect to claim 31. Atcheson teaches a network of computers.
26. Regarding claim 40, see the preceding argument with respect to claims 18 and 24. The combination teaches these features.
27. Regarding claim 41, the further limitation of claim 40, see the preceding argument with respect to claim 2.
28. Regarding claim 42, the further limitation of claim 40, see the preceding argument with respect to claim 3.

Art Unit: 2644

29. Regarding claim 43, the further limitation of claim 40, see the preceding argument with respect to claim 4.

30. Regarding claim 44, the further limitation of claim 40, see the preceding argument with respect to claim 5.

31. Regarding claim 45, the further limitation of claim 40, see the preceding argument with respect to claim 6.

32. Regarding claim 46, the further limitation of claim 1, Yee teaches that the local apparatus, or user device, makes the comparison between the user's preferences and the broadcast characteristics (Col. 4, lines 36-42).

33. Regarding claim 48, the further limitation of claim 24, this is inherent in a network of computer, like a network taught by the combination. The first and second processors may be equal in many different aspects, and would be a design choice for one skilled in the art of computer networks.

34. Regarding claim 50, the further limitation of claim 40, see the preceding argument with respect to claim 48.

35. Regarding claim 51, see the preceding argument with respect to claim 1. The combination teaches these features.

36. Regarding claim 53, the further limitation of claim 51, see the preceding argument with respect to claim 1. The combination teaches the use of broadcast channels.

37. Regarding claim 54, see the preceding argument with respect to claim 1. The combination teaches a computer-implemented method with these features.

Art Unit: 2644

38. Regarding claim 55, the further limitation of claim 54, see the preceding argument with respect to claim 1. The combination teaches broadcast channels.

39. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination as applied to claim 51 above, and further in view of Logan et al., U.S. Pat. No. 6,088,455 (hereinafter Logan).

40. Regarding the currently amended claim 52, the further limitation of claim 51, see the preceding argument with respect to claim 1. The combination teaches the use of scheduled broadcast times, but does not teach a user-scheduled play time. Logan teaches a user-scheduled play time (Col. 1, lines 38-63 and Col. 2, lines 9-17). It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the teachings of Atcheson, Blum, Yee, and Logan for the purpose of providing prior broadcast material.

### ***Response to Arguments***

41. Applicant's arguments with respect to claims 1-6, 9, 11, 18-29, 31-33, 40-46, 48, and 50-55 have been considered but are moot in view of the new ground(s) of rejection.



Art Unit: 2644

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel R. Sellers whose telephone number is 571-272-7528. The examiner can normally be reached on Monday to Friday, 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DRS

  
HUYEN LE  
PRIMARY EXAMINER